

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE: PHARMACEUTICAL INDUSTRY ) MDL NO. 1456  
AVERAGE WHOLESALE PRICE )  
LITIGATION ) CIVIL ACTION: 01-CV-12257-PBS  
 ) Subcategory Docket: 06-CV-11337-PBS  
 )  
THIS DOCUMENT RELATES TO ) Judge Patti B. Saris  
*U.S. ex rel. Ven-A-Care of the Florida Keys,* )  
*Inc. v. Abbott Laboratories, Inc.,* ) Magistrate Judge Marianne B. Bowler  
No. 06-CV-11337-PBS )  
 )

**ORAL ARGUMENT REQUESTED**

**ABBOTT LABORATORIES, INC.'S  
MOTION FOR PARTIAL SUMMARY JUDGMENT**

Defendant Abbott Laboratories, Inc. ("Abbott") hereby respectfully asks, pursuant to Federal Rules of Civil Procedure 56, that this Court grant partial summary judgment as to several aspects of the United States' case. Specifically, Abbott asks the Court to grant judgment to Abbott as to

- All False Claims Act claims for claims paid based on something other than a reported price; claims with insufficient evidentiary causation and damages support; claims paid based on an AWP proxy; and all claims for Ohio Medicaid;
- All False Claims Act damages claims after June 23, 1995 for Vancomycin, saline, and dextrose, and August 12, 1997 for Abbott's sterile water;
- The Government's unjust enrichment claims in their entirety;
- The Government's claims relating to Abbott's former Home Infusion Services business; and
- All False Claims Act claims accruing prior to March 17, 2000

WHEREFORE, Abbott asks that its motion be granted, and relief be provided as requested herein and in the accompanying memorandum.

Dated: June 26, 2009

Respectfully submitted,

/s/ R. Christopher Cook

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*Counsel for Defendant Abbott Laboratories, Inc.*

**CERTIFICATE OF SERVICE**

I, David S. Torborg, an attorney, hereby certify that I caused a true and correct copy of the foregoing ABBOTT LABORATORIES, INC.'S MOTION FOR PARTIAL SUMMARY JUDGMENT to be served on all counsel of record electronically by causing same to be posted via LexisNexis, this 26th day of June, 2009.

/s David S. Torborg  
David S. Torborg

**CERTIFICATE PURSUANT TO LOCAL RULE 7.1**

I certify that the moving party communicated with counsel for the Government in an effort to resolve the dispute referred to in this motion, and that the parties have not been able to reach agreement with respect thereto.

/s/ David S. Torborg

David S. Torborg